

### **Remarks**

Claims 1-25, 50, and 51 are pending in the present application.

With this response, claims 1, 9, 17, 18, 22, 25, 50, and 51 have been amended.

Claims 1-25, 50, and 51 remain pending in the application for consideration.

Applicant respectfully petitions the Commissioner for Patents to extend the time for response to the Office action mailed September 16, 2003, for one month from December 16, 2003, to January 16, 2004. Enclosed is a check for \$110.00 for the extension of time.

It is believed that no additional fee is required at this time. However, if a fee is required, please charge Deposit Account No. 50-1775 and notify us of the same.

Reconsideration and allowance of the claims, as amended, and in light of the following remarks, are respectfully requested.

### **Claim Rejections**

The Office action asserts that changes made to 35 U.S.C. § 102(e) by the American Inventors Protection Act of 1999 do not apply to examination of this application, because the application was not "filed on or after November 29, 2000." Applicants disagree. Contrary to the Office action, the present application was filed on August 2, 2001, based on a provisional application filed June 1, 2001.

The claims are rejected on various expressed bases, under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious, in view of specific prior art references. The primary reference cited is Hogan.

The rejections are overcome by amendment to the independent claims, or alternately are traversed.

Applicants' independent claims have been amended to feature bioresorbable, self-expanding stents that are both annealed and gamma-irradiated. Support for this amendment can be found throughout the specification as originally filed, e.g., at paragraphs 0045, 0046, and 0047 (pages 11 and 12). Within these paragraphs, Applicants' specification discusses annealing and gamma-irradiation processes for bioresorbable stents, and in addition describes how *in vivo* functional life of

bioresorbable stents of the invention can be related to the temperature and duration of annealing as well as the dosage of gamma-irradiation. Thus, the claims as amended relate to bioresorbable stents that have a controllable *in vivo* functional lifetime, that are annealed, and that are gamma-irradiated.

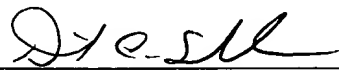
The amended claims are believed to be neither anticipated by the Hogan reference nor obvious over the Hogan reference. The Hogan reference is not seen to describe bioresorbable stents that have a controllable *in vivo* lifetime, that are annealed, and that are gamma-irradiated. As such, the reference is not seen to teach (e.g., anticipate) or otherwise suggest the amended claims.

Further, the amended claims are believed to be non-obvious over the Hogan reference in combination with any of the cited secondary references. None of the secondary references is believed to remedy the shortcomings of the Hogan reference with respect to the subject matter of the amended claims. That is, none of the secondary references, if combined with Hogan, is believed to result in a suggestion of the subject matter of the amended claims -- none of the secondary references is believed to teach, suggest, or provide specific motivation for a bioresorbable stent that is both annealed and gamma-irradiated, and that has a controllable *in vivo* lifetime.

The rejection of claims that feature a fenestrated embodiment of a stent are overcome by amendment as discussed above, and are further traversed based on the feature of a fenestrated walled surface. These claims include claims 22 through 25. The Stinson reference relates to braided stents, and does not anywhere describe or suggest a stent having fenestrated walls. Further, the Stinson reference in potential combination with any of the secondary references is not seen to teach or suggest a fenestrated stent as claimed, e.g., a fenestrated stent that is annealed and gamma-irradiated. Thus, the rejection of claims 22 through 25 as anticipated or obvious should be withdrawn.

The Examiner is invited to contact the undersigned, at the Examiner's convenience, should the Examiner have any questions regarding this communication or the present patent application.

Respectfully Submitted,

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